

REMARKS

Summary

Claims 1, 3-9 and 11-21 are pending in this application. Claims 1, 3, 9, 11, 15 and 19 have been amended. Claims 2 and 10 have been canceled without prejudice. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 3, 9, 11, 15 and 19 and in order to facilitate prosecution on the merits.

35 U.S.C. § 102(b) Rejection

Claims 1-4 and 15-21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent Number ("USPN") 4,862,407 to Fette et al. ("Fette"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant has cancelled dependent claim 2 and has incorporated its subject matter into independent claim 1. Therefore, the rejections with respect to claim 2 will be addressed below with respect to amended independent claim 1.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Fette fails to teach each and every element recited in claims 1-4 and 15-21 and thus they define over Fette. For example, with respect to claim 1, Fette fails to teach, among other things, the following language:

trigger logic to determine when a sufficient amount of input data for a function has been stored in said memory unit, and to send a triggered function identifier to said control unit when sufficient amount of input data for a function has been stored in said memory unit.

According to the Office Action, the above recited language is disclosed by Fette.

Applicant respectfully disagrees.

Applicant respectfully submits that Fette, arguably, teaches a digital signal processing apparatus having a host processor (Fig. 11) interfaced to a plurality of coprocessors (Fig. 20), wherein the host processor programs coprocessors using higher level functional instructions. The host processor (Fig. 11) in Fette writes a command function block within the dual port memory element (Fig. 19) and directly communicates with a corresponding coprocessor (Fig. 20) causing the coprocessor to read the function block and perform the commanded function on an indicated data array within the dual port memory element (Fig. 19). Applicant submits, however, that the host processor and dual port memory of Fette do not comprise trigger logic to determine when a sufficient amount of input data for a function has been stored in said memory unit, and to send a triggered function identifier to said control unit when sufficient amount of input data for a function has been stored in said memory unit, as recited in amended independent claim 1.

Furthermore, Applicant submits that Fette arguably teaches a host processor that writes a command function block within the selected dual port memory element when tasks have been allocated by the host processor. By way of contrast, the claimed subject matter recites determining when a sufficient amount of input data for a function has been stored in a memory unit, and sending a triggered function identifier to the control unit

before tasks have been allocated. Applicant respectfully submits that this is clearly different than the teaching of Fette.

Moreover, Applicants submit that he has been unable to locate any teaching, suggestion, or motivation to modify Fette to include all of the recited features of amended independent claim 1. For at least the reasons set forth above, Applicant submits that amended independent claim 1 defines over Fette and is allowable and that dependent claims 3-8 are allowable by virtue of their dependency, as well as on their own merits.

Applicant further submits that the foregoing arguments made in regard to amended independent claim 1 are similarly applicable to amended independent claims 15 and 19 which have been amended to recite features similar to those recited in independent claim 1. Applicant submits, therefore, that amended independent claims 15 and 19 are allowable and that dependent claims 16-18 and 20-21 are allowable by virtue of their dependency, as well as on their own merits, for reasons analogous to those presented above with respect to claim 1. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 102(b) rejection of claims 1-4 and 15-21.

35 U.S.C. § 103(a) Rejection

Claims 5-8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Fette in view of USPN 6,725,364 to Crabill ("Crabill"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

As discussed above, Applicant respectfully submits that Fette fails to teach or suggest all of the features recited in amended independent claim 1. Applicant also submits that Crabill fails to teach, suggest or disclose the above recited missing language.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example.

Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 5-8 that depend from claim 1, and therefore contain additional features that further distinguish these claims from the cited references.

Official Notice

At page 6 of the Office Action claims 9-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fette in view of a taking Official Notice. At page 7 of the Office Action claims 13 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fette in view of a taking Official Notice and further in view of Crabill. Applicant respectfully traverses the taking of Office Notice and respectfully requests that the Examiner support the taking of Office Notice with adequate evidence.

Applicant has cancelled dependent dependant claim 10 and has incorporated its subject matter into independent claim 9. Therefore, the rejections with respect to claim 10 will be addressed below with respect to amended independent claim 9.

According to MPEP 2144.03, "Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute" (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132

USPQ 6 (CCPA 1961)).” Applicant respectfully submits that the limitations in the above recited claims, asserted to be well-known, or to be common knowledge in the art, are not capable of instant and unquestionable demonstration as being well-known. If such facts are capable of instant and unquestionable demonstration as being well-known, which Applicant does not admit, Applicant respectfully requests that the Examiner provide sufficient documentary evidence to support such a finding.

Furthermore, at page 8, the Office Action argues that it is inherent to include a fuse map in the case of field programmable gate arrays. Applicant respectfully submits that “in relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Office Action relies on portions of Crabill related to using configuration parameters to reprogram a field programmable gate array (“FPGA”). Applicant respectfully submits that the Office Actions fails, however, to provide a factual basis that proves the only way to configure a control unit state machine module in accordance with a fuse map is using a FPGA.

Moreover, Applicant respectfully submits that claim 9 has been amended to recite features similar to those recited in amended independent claim 1. As recited above, Applicant submits that Fette fails to teach, suggest or disclose each and every element recited in independent claims 1 and 9. Moreover, Applicant submits that Crabill and the above identified deficient Official Notice also fail to teach the missing language. Applicant submits, therefore, that amended independent claim 9 is allowable and that dependent claims 11-14 are allowable by virtue of their dependency, as well as on their

own merits. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103(a) rejection of claims 9 and 11-14.

Conclusion

For at least the above reasons, Applicant submits that claims 1, 3-9 and 11-21 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1, 3-9 and 11-21 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to deposit account 50-4238.

Respectfully submitted,

KACVINSKY LLC

/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: February 23, 2009

KACVINSKY LLC
C/O Intellevate
P.O. Box 52050
Minneapolis, MN 55402
(724) 933-5529